

PAUL R. LEPAGE GOVERNOR

STATE OF MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY LAND USE PLANNING COMMISSION 22 STATE HOUSE STATION AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB COMMISSIONER

NICHOLAS D. LIVESAY EXECUTIVE DIRECTOR

PERMIT

AMENDMENT Q TO DEVELOPMENT PERMIT DP 3501 BY SPECIAL EXCEPTION

The staff of the Maine Land Use Regulation Commission (hereafter, the Commission), after reviewing the application and supporting documents submitted by Three Rivers Whitewater, Inc. for Amendment Q to Development Permit DP 3501, finds the following facts:

1. Applicant: Three Rivers Whitewater, Inc.

Attn: Anthony Rinaldi

PO Box 10

West Forks, ME 04985

2. Date of Completed Application: October 23, 2006

3. Location of Proposal: The Forks Plt, Somerset County

Taxation Lots #37, #37A, and part of #38 on Plan 05 (Lot #38 is a Central Maine Power Lease Lot)

4. Zoning: (D-GN) General Development Subdistrict

(M-GN) General Management Subdistrict (P-SL1) Shoreland Protection Subdistrict (P-SL2) Shoreland Protection Subdistrict

5. Lot Size: 20.5 Acres (owned)

70 Acres (leased)

6. Existing Primary Development:

East Side of Route 201:

Main Lodge Building, Irregularly Shaped (6,602 sq/ft.) (total floor area of *Restaurant and Store 3,600 sq/ft. and miscellaneous decks, kitchen, bathroom, 2nd floor and storage 3,002 sq/ft.)*

West Side of Route 201:

Magalloway Camp (16ft. by 20ft.) Dead Camp (16ft. by 20ft.) Rapid Camp (16ft. by 20ft.)

18 ELKINS LANE, HARLOW BUILDING

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Penobscot Camp (20ft. by 24ft.) Kennebec Camp (20ft. by 24ft.) Seboomook Camp (30 ft. by 42ft.) Bunk House #1 (12ft. by 14ft.) Bunk House #2 (12ft. by 14ft.) Bunk House #3 (12ft. by 14ft.) Bunk House #4 (12ft. by 14ft.) Bunk House #5 (12ft. by 14ft.) Bunk House #6 (12ft. by 14ft.) Bunk House #7 (12ft. by 14ft.) Bunk House #8 (12ft. by 14ft.) Bunk House #9 (12ft. by 14ft.) Bunk House #10 (12ft. by 14ft.) Women's Shower House (24ft. by 30ft.) Men's Shower House (24ft. by 36ft.) Cabin Tent A (12ft. by 14ft.) Cabin Tent B (12ft. by 14ft.) Cabin Tent C (12ft. by 14ft.)

Existing Accessory Development,

East Side of Route 201:

11 tent sites 6 cabin tents

Storage Shed (10ft. by 20ft.) Equipment Shed (14ft. by20ft.) Sign (4ft. by 8ft.)

West Side of Route 201:

Building #1 (10ft. by 10ft.) Pole Barn (28ft. by 36ft.) Garage (20ft. by 22ft.)

7. Proposed Development;

East Side of Route 201:

Deck Addition (10ft. by 12ft.)
Addition to Main Lodge Building (8ft. by 32ft.)
Enclosure of Covered Porch on Main Lodge Building (8ft. by 30ft.) (8ft. by 20ft.)
Reconfigure of existing floor plan to accommodate a retail space of (36ft. by 36ft.)
Sign (6ft. by 6ft.) Affixed to Building

(total floor area of Restaurant and Store 4,4064 sq/ft.)

West Side of Route 201:

No Prosed Changes

8. Existing Principal Floor Area; 14,270 square feet

9. Proposed Principal Floor Area; 408 square feet

10. Affected Waterbodies: Kennebec River and Kelly Brook

Proposal

11. The applicant seeks amendment approval to add 2 additions to the Existing Main Lodge Building. An 8 foot by 36 foot addition no closer than 25 feet from US Route 201 and a 10 foot by 12 deck greater than 25 feet from US Route 201, for a total of 408 square feet of new principal floor area. In addition to the proposed expansion to the Main Lodge Building, the applicant also proposes to enclose the two existing covered porches. (8ft. by 30ft.) (8ft. by 20ft.) The Main Lodge Building is sited 25 feet from US Route 201.

The applicant also proposes to reconfigure the proposed and existing floor plan of the Main Lodge Facility to accommodate a retail space of a 32 foot by 32 foot print, and to affix a proposed 6 foot by 6 foot sign to the Main Lodge Building to advertise the proposed retail space. The addition of the 36 square foot sign will bring the total square footage of signage at the facility to 100 square feet.

The applicant has stated that all proposed construction activities will be located no closer than 25 feet from US Route 201, greater than 25 feet from nearest property boundary line and greater than 100 feet from any water body.

Background Information

- 12. Development Permit DP 3501, issued to Richard L. Hoddinott, Sr. and Richard L. Hoddinott, Jr. in November of 1981, authorized the conversion of a pre-1971 residence and accessory structures into a whitewater rafting facility. Also authorized were the construction of ten campsites, a shower house, an equipment storage building, and a parking area.
- 13. Amendments A through K to Development Permit DP 3501, issued to Rick Hoddinott/Downeast Whitewater between 1984 and 1998, authorized various additional campsite and structural developments. Some of the campsites on the leased portion of the property that are now managed by the applicant were approved as part of Development Permit DP 4163, issued to Central Maine Power Company/Union Water Power Company in July of 1993.
- 14. Amendment L to Development Permit DP 3501, issued to the applicant in April of 2000, reflected the change of ownership of the property and business from Rick Hoddinott/Downeast Whitewater to the applicant.
- 15. Amendments M through O to Development Permit DP 3501, issued to the applicant between 2001 and 2004, authorized various additional structural developments and installation of a new combined sewage disposal system.
- 16. Amendment P to Development Permit DP 3501, issued to the applicant in 2006, authorized the reconfiguration of tent and platform sites as well as the construction of 10 new bunkhouses. All proposed construction and relocations were to be set back greater than 100 feet from the nearest

waterbody, greater than 25 feet from the nearest property boundary line and greater than 50 feet from the nearest roadway.

Review Criteria:

- 17. Under provisions of Section 10.11,B,1 of the Commission's <u>Land Use Districts and Standards</u>; permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S.A. §685-B(4) and demonstrate that:
 - a. the project will not adversely affect surrounding uses and resources; and
 - b. there is no increase in the extent of nonconformance, except as provided in Section 10.11,B,9 or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback.
- 18. Under provisions of Section 10.11,B,2 of the Commission's <u>Land Use Districts and Standards</u>; Where legally existing, nonconforming structures do not meet these setbacks, an existing setback line will be established. The existing setback line will run parallel to the water body, road or property boundary at a distance equal to the closest point of the existing structure (including attached decks or porches) to the feature from which the setback is established.
- 19. Under provisions of Section 10.11,C,1 of the Commission's <u>Land Use Districts and Standards</u>; a permit is required for the expansion of a nonconforming structure.
- 20. Under provisions of Section 10.11,C,6 of the Commission's <u>Land Use Districts and Standards</u>; A permit is required for the complete or partial enclosure of decks and porches. Enclosure of decks and porches is not an expansion of floor area.
- 21. Under provisions of Section 10.21,C,3,d of the Commission's <u>Land Use Districts and Standards</u>; A permit is required by special exception from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:
 - Commercial and industrial: (a) Auto service stations or repair garages; (b) Light industrial uses and other commercial uses having a gross floor area of more than 2,500 square feet; and (c) Stores, commercial recreational uses not including recreational lodging facilities, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet.
- 22. Under provisions of Section 10.21,C,3c (20) of the Commission's <u>Land Use Districts and Standards</u>, permits are required for signs which are not in conformance with the Standards of Section 10.27,J.
- 24. The facts are otherwise as represented in Development Permit DP 3501, Amendments A through P to Development Permit DP 3501, Amendment Request Q, and supporting documents.

Based upon the above Findings, the staff concludes that;

- 1. Pursuant to Section 10.11,B,1 of the Commission's <u>Land Use Districts and Standards</u>; there is no increase in the extent of nonconformance created by the proposed development, as it will be no closer than 25 feet from US Route 201, which is the current setback of the existing main lodge building.
- 2. Pursuant to Section 10.11,B,2 of the Commission's <u>Land Use Districts and Standards</u>; the Main Lodge sited 25 feet from US Route 201 is the existing setback line that runs parallel with US Route 201. The proposed development will be no closer than 25 feet from US Route 201.
- 3. Pursuant to Section 10.11,C,1 of the <u>Commission's Land Use Districts and Standards</u>; the proposed deck and addition constitutes an expansion of a nonconforming structure.
- 4. Pursuant to Section 10.11,C,6 of the Commission's <u>Land Use Districts and Standards</u>; enclosing the existing porch for retail space constitutes a deck or porch enclosure, however, does not expand the floor area of the existing structure.
- 5. Pursuant to Section 10.21,C,3c (20) of the Commission's <u>Land Use Districts and Standards</u>; the existing facility currently has more than 64 square feet of advertising signage. The proposed 32 square feet of new signage does not impose undo adverse impact or safety issues where as it is incorporated into the side of the existing building.
- 6. Pursuant to Section 10.21,C,3,d of the Commission's <u>Land Use Districts and Standards</u>; of the Commission's <u>Land Use Districts and Standards</u>; the proposed expansion and deck enclosures of the Maine Lodge Building to accommodate additional retail space would not have any undo adverse impacts upon surrounding uses and resources and is no more nonconforming than previous issuances of Amendments K through P to Development Permit DP 3501.

Therefore, the staff approves the application of Three Rivers Whitewater, Inc. with the following conditions:

- 1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
- 2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation is subject to prior review and approval of the Maine Land Use Regulation Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Regulation Commission law.
- 3. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee

shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

- 4. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Air and Water Pollution Control Regulations; Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation, Driveway Entrance Permit, a physical E-911 address from your County Commissioner's Office.
- 5. All authorized structures and expansions must be set back a minimum of 150 feet from the normal high water mark of the Kennebec River, 100 feet from Kelly Brook, 25 feet from Route 201, and 25 feet from other property boundary lines.
- 6. All Conditions of Development Permit DP 3501 and Amendment P shall remain in effect.
- 7. This permit does not obviate the need for any other federal, state or local approvals. The applicant shall comply with all applicable federal, state and local regulations.
- 8. Once construction is complete the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.
- 9. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
- 10. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 3rd DAY OF APRIL, 2014.

For; Nicolas D. Livesay, DIRECTOR